

RETURN DATE: AUGUST 11, 2020	:	SUPERIOR COURT
	:	
DAVID MARKATOS & JENNIFER HOLME	:	J.D. OF STAMFORD
	:	
v.	:	AT STAMFORD
	:	
PLANNING & ZONING COMMISSION	:	
OF THE TOWN OF NEW CANAAN &	:	
GRACE FARMS FOUNDATION, INC.	:	JUNE 30, 2020

**CITATION AND RECOGNIZANCE**

TO ANY PROPER OFFICER:

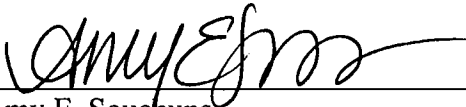
By Authority of the State of Connecticut, You are hereby commanded to summon the PLANNING & ZONING COMMISSION OF THE TOWN OF NEW CANAAN, 77 Main Street, New Canaan, Connecticut 06840, and GRACE FARMS FOUNDATION, INC., 365 Lukes Wood Road, New Canaan, Connecticut 06480, to appear before the Superior Court within and for the Judicial District of Stamford at Stamford, 123 Hoyt Street, Stamford, Connecticut 06905, on August 11, 2020, then and there to answer unto the foregoing Complaint and Appeal of David Markatos and Jennifer Holme by leaving two (2) true and attested copies of the attached Appeal and of this Citation with the Clerk of the Town of New Canaan, 77 Main Street, New Canaan, Connecticut 06840, and by leaving one (1) true and attested copy of the attached Appeal and of this Citation with Grace Farms Foundation, Inc., 365 Lukes Wood Road, New Canaan, Connecticut 06480, at least twelve (12) days before the return date.

David Markatos as principal and Donna S. Worroll of the City of Milford, as surety, are recognized in the sum of \$250.00, payable to the Planning and Zoning Commission of the Town of New Canaan to prosecute this appeal to effect and comply with the orders and decrees of this

Court. I hereby certify that I have personal knowledge of the financial responsibility of the Plaintiffs and deem them sufficient to pay the costs of this action.

HEREOF FAIL NOT, but of this writ, with your doings thereon, make due service and return according to law.

Dated at Milford, Connecticut, this 30th day of June, 2020.

  
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Amy E. Souchuns  
Commissioner of the Superior Court

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**COMPLAINT AND APPEAL FROM THE DECISION OF THE  
PLANNING & ZONING COMMISSION FOR THE TOWN OF NEW CANAAN**

1. Plaintiffs David Markatos and Jennifer Home are the owners of real property located at 1328 Smith Ridge Road in New Canaan, Connecticut (“Markatos-Holme Property”).
2. The Markatos-Holme Property directly abuts real property at 365 Lukes Wood Road in New Canaan, Connecticut (“Grace Farms”) owned and managed by defendant Grace Farms Foundation Inc. (“GFF”).
3. Defendant Planning and Zoning Commission of the Town of New Canaan (“PZC”) has authority, pursuant to the General Statutes, to hear applications for administrative approvals and special permits.
4. On September 26, 2017, the PZC approved GFF’s special permit application to amend a prior special permit with respect to Grace Farms (“2017 Special Permit”).
5. The 2017 Special Permit authorized two additional principal uses for GFF at Grace Farms – “Philanthropic and Eleemosynary Institutions” and “Clubs and Organizations” – to the approved “Religious Institution” use – and required the merger of three separate lots at Grace Farms into a single parcel.

6. Finding 7 of the 2017 Special Permit recognizes that the activity level at Grace Farms had the potential to be disruptive to the surrounding residential neighborhood, but ultimately concluded that “the uses and activities requested on the property can be effectively managed by the findings and stipulations in this Special Permit.” The 2017 Special Permit was granted subject to 100 conditions of approval.

7. Condition 4 provides that the PZC retains the authority to monitor intensity of use at Grace Farms and allows the PZC to modify or rescind the 2017 Special Permit upon “any violation of any condition or modification of approved activities. . . .”

8. Condition 6 of the 2017 Special Permit states that “[t]here shall be no material change of the approved use or intensification of any use unless specifically authorized herein.”

9. Condition 36 allows use of the gymnasium (also referred to as the “Court”) at the Grace Farms “for Church and Foundation sponsored activities or for other athletic organizations” subject to approval by the PZC.

10. In June 2020, GFF sought approval from the PZC for use of the court and Grace Farms by various organizations during the summer and fall months of 2020 (“Activity Application”). The Activity Application sought to allow use of the gymnasium/Court for a variety of public and private athletic activities for up to 11 hours per day.

11. Markatos and Holme submitted extensive documentation about GFF’s ongoing operations at Grace Farms, including repeated violations of conditions of approval and the impact the activities at Grace Farms has on the enjoyment of their property. They requested that the PZC deny the Activity Application.

12. On June 23, 2020, at its regularly scheduled meeting, the PZC approved GFF's Activity Application without a public hearing or an application to amend the 2017 Special Permit, and without any discussion or findings by the PZC about the Activity Application.

13. Notice of the PZC's vote on the Activity Application was published on the Town of New Canaan website on June 24, 2020, pursuant to Executive Order 7I.

14. Pursuant to General Statutes § 8-8(b), Plaintiffs are statutorily aggrieved by the PZC's action as owners of property abutting and within 100 feet of Grace Farms.

15. In approving the Activity Application, the PZC acted illegally, arbitrarily and in abuse of its discretion in that:

(a) the Activity Application violated the terms, spirit and intent of the 2017 Special Permit;

(b) the Activity Application further expands the intensity of use occurring at Grace Farms in violation of the 2017 Special Permit and the Zoning Regulations;

(c) the PZC failed to review the information before it in accordance with law and failed to make any findings about the nature of the Activity Application as required by the Zoning Regulations;

(d) the PZC failed to require an amendment to the 2017 Special Permit and did not conduct a public hearing on the Activity Application.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment and relief as follows:

1. The appeal be sustained and the Activity Application be deemed void;
2. such other relief as is just and proper.

THE PLAINTIFFS  
DAVID MARKATOS AND JENNIFER HOLME

BY

  
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AMY E. SOUCIOUS

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